In re Patent No. 6,475,047

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patentee:

Sam Cynamon

Patent No.:

6,475,047

Issue Date:

November 5, 2002

Serial No:

09/785,941

Filed:

February 16, 2001

For:

RESCUE DEVICE

Confirmation No.:

4399

Petitions Attorney: Patricia Faison-Ball

Mail Stop Petitions Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313

STATEMENT OF JOANNE RHEE

SIR:

I, Joanne Rhee, residing at 9 South Browning Avenue, Tenafly, New Jersey 07670, hereby declare that:

I have been employed as a Legal Assistant/Paralegal at law firms specializing in intellectual property matters since about November 2001.

I was employed as a Legal Assistant/Paralegal to Robert P. Michal at Frishauf, Holtz, Goodman & Chick P.C. (FHGC), from April 2009 to April 2010. FHGC, which after Mr. Michal's departure changed its name to Holtz, Holtz, Goodman & Chick, P.C., ("Holtz"), is located at 220 Fifth Avenue, New York, New York 10001. I have been employed as a Legal Assistant/Paralegal to Robert P. Michal at Lucas & Mercanti LLP ("L&M") since April 2010, when he resigned from FHGC to join L&M. I worked closely with Mr. Michal in the transfer of matters from FHGC to L&M. As such, I am very familiar with the circumstances surrounding the transfer of the matters from FHGC to L&M.

During the week of April 12, 2010, FHGC sent out a letter of election signed by both Douglas Holtz and Robert P. Michal to each of the FHGC clients for whom Robert P. Michal was responsible (see Exhibit 1 Sample letters to client) to advise each client that Mr. Michal was resigning from FHGC to join L&M, and to inquire of each client whether their matters should stay at FHGC, be transferred to L&M, or be sent to another location.

On Friday, April 16, 2010, Mr. Sam Cynamon sent his authorization to transfer all of his matters from FHGC to L&M (see Exhibit 2). Based on this authorization, FHGC generated a client docket report regarding all of Mr. Cynamon's matters that were being handled by FHGC and provided it to Robert P. Michal, (see Exhibit 3). Mr. Michal gave the docket report to me to record the physical file transfers from FHGC to L&M. Docket reports were also prepared by FHGC for each client that wanted their matters transferred to L&M.

Mr. Michal and I began employment at L&M on Monday, April 19, 2010. As more than 80 clients directed their matters to be transferred from FHGC to L&M, and some clients had more than 30-40 pending matters, I created an Excel chart for each client to provide a concise list of the matters that were to be transferred, and to more easily monitor the receipt of files sent from FHGC to L&M (see Exhibit 4). The Excel chart was prepared based upon the docket reports that were provided by FHGC. The Excel chart that I generated for each client, including Mr. Cynamon, was provided to Mr. Michal for his review along with the docket report provided by FGHC, to confirm that all of the matters listed in the docket report were included in the Excel chart. Mr. Michal confirmed that all of the matters listed on the FHGC docket report for Mr. Cynamon were included

on the Excel Chart.

The physical files for Mr. Cynamon's matters were received by L&M on Monday, April 19, 2010, and L&M cross-checked the Excel chart I created and the docket report that was separately provided by FHGC with the physical files that were received.

In conjunction with the transfer of responsibility for Mr. Cynamon's matters and all of the other client matters being transferred from FHGC to L&M, I created new Power of Attorney forms for the transferred matters as needed, filed the forms with the USPTO, and filed a Change of Correspondence Address for each transferred matter.

On January 30, 2013, Mr. Michal informed me that he received a telephone call from Sam Cynamon inquiring as to the status of USP 6,475,047. I was told that Mr. Cynamon inquired as to whether the necessary second maintenance fee had been submitted to the U.S. Patent Office in connection with USP 6,475,047 to maintain this patent. Mr. Michal requested that I access the PAIR system through the Patent Office website. I discovered that USP 6,475,047 had expired due to the non-payment of maintenance fees under 37 CFR 1.362. I was told by Mr. Michal that he confirmed with Mr. Cynamon that Mr. Cynamon did not receive any notification that the maintenance fee for USP 6,475,047 was due.

Thereafter, I checked the L&M records for all of the Sam Cynamon matters that were transferred from FHGC to L&M, and discovered that the FHGC office file corresponding to US 6,475,047 was not transferred to L&M, nor was USP 6,475,047 listed in the docket reports provided by FHGC to L&M (see Exhibit 3). As a result, USP 6,475,047 was not entered into the docketing records of L&M, nor was a change of correspondence address and attorney/agent information submitted to the Patent Office.

It is my understanding that we filed a PETITION TO ACCEPT UNAVOIDABLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT on January 31, 2013. After we received the Decision on the Petition, a Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address was provided to Mr. Cynamon and filed with the USPTO on April 2, 2013 (see Exhibit 5). In addition, in accordance with the Examiner's suggestion, a "FEE ADDRESS" INDICATION FORM was also filed on May 1, 2013 as well (see Exhibit 5).

It is my belief that the non-payment of the maintenance fee was due to an error of the original FHGC docket report for Sam Cynamon's matters which did not include USP 6,475,047 and FHGC's failure to transfer the physical file for USP 6,475,047 to L&M.

After learning of the non-payment of the maintenance fee, I contacted Ms. Catherine Bacon of Holtz to request that the physical file for USP 6,475,047 be provided to us. Ms. Bacon provided the Patent Office file to me on April 17, 2013. Ms. Bacon advised me that she had previously provided a Notice of Patent Expiration in connection with USP 6,475,047 to our firm on or about January, 2011. However, we have no record of receipt of this item in our office. I note that Ms. Bacon did not mention that Holtz received or forwarded to L&M of the USPTO Notice of Maintenance Fee Reminder, which would have been issued in time for the appropriate maintenance fee to be paid. In reply to our request, the Holtz firm agreed to provide a Statement by Catherine Bacon regarding the transfer of responsibility of matters from FHGC to L&M. This is the only Statement that was provided by the Holtz firm in connection with this matter.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements

were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date May 1, 2013

Joanne RHEE

Caro C. Camo

EXHBIT 1



FRISHAUF HOLTZ GOODMAN & CHICK P.C.

INTELLECTUAL PROPERTY LAW 220 FIFTH AVENUE, NEW YORK, NY 10001-7708

LEONARD HOLTZ HERBERT GOODMAN MARSHALL J. CHICK RICHARD S. BARTH DOUGLAS HOLTZ RODERT P. MIGHAL

OF COUNSEL! BRIAN ROFFE TELEPHONE: +1 212 319 4900 FACSIMILE: +1 212 319 5101

April 12, 2010

Mr. Morris Hassan Rubbercycle LLC 1985 Rutgers Blvd. Lakewood, NJ 08701

Dear Mr. Kassan:

Mr. Robert Michal will be leaving this firm as of April 19, 2010, to become a partner of Lucas & Mercanti LLP, 475 Park Avenue South, New York, New York 10016, an IP law firm.

Mr. Michal currently handles patont and/or trademark matters for you.

This letter is being sent to inform you of the following options with respect to continued legal representation, for matters being handled for you by Mr. Michal:

- (1) You may elect to remain a client of this firm and have your files remain with this firm;
- (2) You may elect to be represented by Mr. Michal at Lucas & Mercanti and have your files transferred to that firm;
 - (3) You may elect to be represented by this firm for selected matters and to be represented by Mr. Michal at Lucas & Mercanti for other selected matters (if you select this option, please specifically indicate which matters are to be handled by this firm and which matters are to be handled by Mr. Michal);
 - (4) You may elect to be represented by another firm and have your files transferred to that firm; or
 - (5) You may request return of your files directly to you.

Please indicate your instructions in the form below and return a signed and dated copy of this letter by facsimile to both 212-319-5101 and 212-661-8002.

Thank you for your attention and cooperation.

Very truly yours,

Douglas Holtz

Nobert Michal

I/We hereby exercise

option (4) set forth above.

By:

Print name: MORRIS HASSAN

Date: 5/5/2010 , 2010

EXHIBIT 2

FACSIMILE:



FRISHAUF HOLTZ GOODMAN & CHICK P.C.

INTELLECTUAL PROPERTY LAW

LEONARD HOUTZ HERBERT GOODMAN MARSHALL J. CHICK RICHARD S. BARTH DOUGLAS HOLTZ ROBERT P. MICHAL

OF COUNSEL BRIAN ROFFE 220 FIFTH AVENUE, NEW YORK, NY 10001-7708

RECEIVED

TELEPHONE: +12123194900

+12123195101

APR 16 2010

FRISHAUL HULTZ GOODMAN & CHICK, P.G.

April 12, 2010

Mr. Sam Cynamon 517 Wyoming Avenue Millburn, New Jersey 07041

Dear Mr. Cynamon:

Mr. Robert Michal will be leaving this firm as of April 19, 2010, to become a partner of Lucas & Mercanti LLP, 475 Park Avenue South, New York, New York 10016, an IP law firm.

Mr. Michal currently handles patent and/or trademark matters for you.

This letter is being sent to inform you of the following options with respect to continued legal representation, for matters being handled for you by Mr. Michal:

- You may elect to remain a client of this firm and have your files remain with this firm;
- You may elect to be represented by Mr. Michal at Lucas (2) & Mercanti and have your files transferred to that firm;
- You may elect to be represented by this firm for selected matters and to be represented by Mr. Michal at Lucas & Mercanti for other selected matters (if you select this option, please specifically indicate which matters are to be handled by this firm and which matters are to be handled by Mr. Michal);
- You may elect to be represented by another firm and have your files transferred to that firm; or
- (5) You may request return of your files directly to you.

Mr. Sam Cynamon

-2-

April 12, 2010

Please indicate your instructions in the form below and return a signed and dated copy of this letter by facsimile to both 212-319-5101 and 212-661-8002.

Thank you for your attention and cooperation.

Very truly yours,

Douglas Holtz

Robert Michal

I/We hereby exercise

option $(\underline{\mathcal{Q}})$ set forth above.

By: Same and

Print name: Sam (4n9mb)

Date: 4/16/ , 2010

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HOTES
PCT NOTIFICATION WAS RECEIVED ON MARCH 22, 2010 PCT HOTEFICATION OF RECEIPT OF RECORD COPY WAS RECEIVED ON APPR., 19, 2019.
PCT notification concerning submission or transmittall of priority document was received on April 19, 2019.

EXHIBIT 4

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	Old Docket	Old Docket New Client Current	Current	New Matter				Patenti	/enss		
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EXHIBIT 5

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMS control number.

PATENT - POWER OF ATTORNEY OR REVOCATION OF POWER OF ATTORNEY WITH A NEW POWER OF ATTORNEY AND CHANGE OF CORRESPONDENCE ADDRESS Patent Number (5,475,047 B2 ISSUE Date ISSUE DA

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	A Power of Attorney is submitted herewith.								
OR									
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This polisetium of information is required by 37 CFR 1.31, 1.32 and 1.33. The information is required to obtain or retain a broadly by the public which is to the fact by the USPTO to process) an application. Consideringity is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 3 mitudes to complete including gathering, programing, and submitting the completed application form to this USPTO. This set very depending upon the individual case. Any comments on the amount of time, you require to complete this form and/or suggestions for reducing this burden, should be said as the Chief information Officer, U.S. Patent and Trademark Office, U.S. Department of Commence, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SENIO FEES OR COMPLETED FORMS TO THIS ADDRESS. SENIO TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Privacy Act Statement

The Privacy Act of 1974 (P.L. 83-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark. Office is to process and/or examine your submission related to a patent application or patent. If you do not turnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or attandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.

 A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to

opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuent to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

 A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to

the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.

 A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential

violation of law or regulation.

Electronic Acl	knowledgement Receipt		
EFS ID:	15412889		
Application Number:	09785941		
International Application Number:			
Confirmation Number:	4399		
Title of Invention:	RESCUE DEVICE		
First Named Inventor/Applicant Name:	Sam Cynamon		
Customer Number:	1933		
Filer:	Robert P. Michai/Joanne Rhee		
Filer Authorized By:	Robert P. Michal		
Attorney Docket Number:	01065/RPM		
Receipt Date:	02-APR-2013		
Filing Date:	16-FEB-2001		
Time Stamp:	16:04:36		
Application Type:	Utility under 35 USC 111(a)		

Payment information:

Submitted with F	² ayment	no					
File Listing:							
Document Number	Document Description		File Name	File Size(Bytes)/ Message Digest	Multi Part /.zip	Pages (if appl.)	
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This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

Approved for use through 05/31/2015, OMB 0651-0016
U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

"FEE ADDRESS" INDICATION FORM

Address to: Mail Stop M Correspondence Commissioner for Patents - OR - P.O. Box 1450 Alexandria, VA 22313-1450	Fax to: 571-273-6500
INSTRUCTIONS: The issue fee must have been paid only an address represented by a Customer Number of fee purposes (hereafter, fee address). A fee address is maintenance fees should be mailed to a different address When to check the first box below: If you have a Custo check the second box below: If you have no Custo in which case a completed Request for Customer Num more information on Customer Numbers, see the Manu	an be established as the fee address for maintenance should be established when correspondence related to ess than the correspondence address for the application, stomer Number to represent the fee address. When omer Number representing the desired fee address, ber (PTO/SB/125) must be attached to this form. For
For the following listed application(s), please recognize a 1.363 the address associated with:	s the "Fee Address" under the provisions of 37 CFR
Customer Number: 20311	
OR The attached Request for Customer Number (PTC	
PATENT NUMBER (if knewn)	APPLICATION NUMBER
6,475,047, issued November 5, 2002	09/785,941, filed February 16, 2001
Completed by (check one):	11.10.10.
Applicant/Inventor	Signature
Attorney or Agent of record 35,614 (Reg. No.)	Robert P. Michal Typed or printed name
Assignee of record of the entire interest. See 37 CFF Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)	R 3.71. (212) 661-8000 Requester's telephone number
Assignee recorded at ReelFrame	May 1, 2013 Date
NOTE: Signatures of all the inventors or assignees of record of the entire interest signature is required, see below*.	t or their representative(s) are required. Submit multiple forms if more that one
Total offorms are submitted.	

This collection of information is required by 37 CFR 1.353. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTQ to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1, 11 and 1,14. This collection is estimated to take 5 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTQ. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450, DO NOT SEND COMPLETE D FORMS TO THIS A DDRESS. SEND TO: Mail Stop M Correspondence, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2,

Acknowledgement Receipt

The USPTO has received your submission at 17:28:34 Eastern Time on 01-MAY-2013.

No fees have been paid for this submission. Please remember to pay any required fees on time to prevent abandonment of your application.

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EFS ID	15667679
Application Number	09785941
Confirmation Number	4399
Title	RESCUE DEVICE
First Named Inventor	Sam Cynamon
Customer Number or Correspondence Address	1933
Filed By	Robert P. Michal/joanne rhee
Attorney Docket Number	01065/RPM
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Application Type	Utility under 35 USC 111(a)

Application Details

Submitted Files	Page Count	Document Description	File Size	Warnings
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